Supreme Court E-Library

THIRD DIVISION

[G.R. No. 173289. February 17, 2010]

ELAND PHILIPPINES, INC., *petitioner, vs.* **AZUCENA GARCIA, ELINO FAJARDO, and HEIR OF TIBURCIO MALABANAN named TERESA MALABANAN,** *respondents.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; CONSTITUTION; BILL OF RIGHTS; DUE PROCESS; ESSENCE IS FOUND IN THE REASONABLE OPPORTUNITY TO BE HEARD AND SUBMIT ONE'S EVIDENCE IN SUPPORT OF HIS DEFENSE; CASE AT BAR. — Petitioner contended that the ten-day notice rule was violated, because the copy of the motion for summary judgment was served only on August 20, 1999 or on the same day it was set for hearing. It also added that even if the petitioner received a copy of the motion only on August 20, 1999, there was no hearing conducted on that date because the trial court issued an order giving petitioner 10 days within which to file its comment or opposition. The above specific contention, however, is misguided. The CA was correct in its observation that there was substantial compliance with due process. The CA ruled, as the records show, that the ten-day notice rule was substantially complied with because when the respondents filed the motion for summary judgment on August 9, 1999, they furnished petitioner with a copy thereof on the same day as shown in the registry receipt and that the motion was set for hearing on August 20, 1999, or 10 days from the date of the filing thereof. Due process, a constitutional precept, does not, therefore, always and in all situations a trial-type proceeding. The essence of due process is found in the reasonable opportunity to be heard and submit one's evidence in support of his defense. What the law prohibits is not merely the absence of previous notice, but the absence thereof *and* the lack of opportunity to be heard.

2. REMEDIAL LAW; CIVIL PROCEDURE; SUMMARY JUDGMENT; ANY ACTION CAN BE THE SUBJECT OF A SUMMARY

Supreme Court E-Library

JUDGMENT; EXCEPTION. — This Court has already ruled that any action can be the subject of a summary judgment with the sole exception of actions for annulment of marriage or declaration of its nullity or for legal separation.

3. ID.; ID.; ID.; WHEN PROPER. — A summary judgment is permitted only if there is no genuine issue as to any material fact and a moving party is entitled to a judgment as a matter of law. A summary judgment is proper if, while the pleadings on their face appear to raise issues, the affidavits, depositions, and admissions presented by the moving party show that such issues are not genuine. It must be remembered that the **non-existence of a genuine issue** is the determining factor in granting a motion for summary judgment, and the **movant has the burden** of proving such nonexistence. x x x Trial courts have limited authority to render summary judgments and may do so only when there is clearly no genuine issue as to any material fact.

4. ID.; ID.; ID.; CANNOT TAKE THE PLACE OF TRIAL WHEN THE FACTS AS PLEADED BY THE PARTIES ARE DISPUTED OR CONTESTED; GENUINE ISSUE, DEFINED. — [T]he facts pleaded by the respondents in their motion for summary judgment have been duly disputed and contested by petitioner, raising genuine issues that must be resolved only after a full-blown trial. When the facts as pleaded by the parties are disputed or contested, proceedings for summary judgment cannot take the place of trial. In the present case, the petitioner was able to point out the genuine issues. A "genuine issue" is an issue of fact that requires the presentation of evidence as distinguished from a sham, fictitious, contrived or false claim.

5. CIVIL LAW; PROPERTY; OWNERSHIP; QUIETING OF TITLE; PURPOSE; REQUISITES. — This Court's ruling in *Calacala, et al. v. Republic, et al.* is instructive on this matter, thus: "To begin with, it bears emphasis that an action for quieting of title is essentially a common law remedy grounded on equity. As we held in *Baricuatro, Jr. vs. CA*: Regarding the nature of the action filed before the trial court, quieting of title is a common law remedy for the removal of any cloud upon or doubt or uncertainty with respect to title to real property. Originating in equity jurisprudence, its purpose is to secure

Supreme Court E-Library

'x x x an adjudication that a claim of title to or an interest in property, adverse to that of the complainant, is invalid, so that the complainant and those claiming under him may be forever afterward free from any danger of hostile claim.' In an action for quieting of title, the competent court is tasked to determine the respective rights of the complainant and other claimants, 'x x x not only to place things in their proper place, to make the one who has no rights to said immovable respect and not disturb the other, but also for the benefit of both, so that he who has the right would see every cloud of doubt over the property dissipated, and he could afterwards without fear introduce the improvements he may desire, to use, and even to abuse the property as he deems best x x x.' Under Article 476 of the New Civil Code, the remedy may be availed of only when, by reason of any instrument, record, claim, encumbrance or proceeding, which appears valid but is, in fact, invalid, ineffective, voidable, or unenforceable, a cloud is thereby cast on the complainant's title to real property or any interest therein. x x x In turn, Article 477 of the same Code identifies the party who may bring an action to quiet title x x x. It can thus be seen that for an action for quieting of title to prosper, the plaintiff must first have a legal, or, at least, an equitable title on the real property subject of the action and that the alleged cloud on his title must be shown to be in fact invalid. So it is that in *Robles, et al. vs. CA*, we ruled: It is essential for the plaintiff or complainant to have a legal title or an equitable title to or interest in the real property which is the subject matter of the action. Also, the deed, claim, encumbrance or proceeding that is being alleged as a cloud on plaintiff's title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy. Verily, for an action to quiet title to prosper, two (2) indispensable requisites must concur, namely: (**1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy."**

6. ID.; LAND TITLES AND DEEDS; PROPERTY REGISTRATION DECREE (P.D. NO. 1529); DECREE OF REGISTRATION; REVIEW THEREOF, WHEN ALLOWED. — Under Sec. 32 of P.D. No. 1529 or the Property Registration Decree: x x x "**Upon**

Supreme Court E-Library

> **the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible."** x x x Courts may reopen proceedings already closed by final decision or decree when an application for review is filed by the party aggrieved within one year from the issuance of the decree of registration. However, the basis of the aggrieved party must be anchored solely on actual fraud.

APPEARANCES OF COUNSEL

Ocampo & Ocampo for petitioner.
Leachon Leachon and Perez Law Firm for respondents.

D E C I S I O N

PERALTA, *J.*:

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, seeking to reverse and set aside the decision[1] dated February 28, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 67417, which dismissed the appeal of petitioner Eland Philippines, Inc. and affirmed the Resolution dated November 3, 1999 of Branch 18, Regional Trial Court (RTC) of Tagaytay City.

The facts of the case, as shown in the records, are the following:

Respondents Azucena Garcia, Elino Fajardo, and Teresa Malabanan, the heir of Tiburcio Malabanan, filed a Complaint[2] dated March 2, 1998 for Quieting of Title with Writ of Preliminary Injunction with the RTC, Branch XVIII, Tagaytay City against petitioner Eland Philippines, Inc. Respondents claimed that they are the owners, in fee simple title, of a parcel of land identified

---

[1] Penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Remedios A. Salazar-Fernando and Estela M. Perlas-Bernabe, concurring; *rollo*, pp. 77-92.

[2] Records, p. 1.

Supreme Court E-Library

as Lot 9250 Cad-355, Tagaytay Cadastre, Plan Ap-04-008367, situated in *Barangay* Iruhin, Tagaytay City, containing an area of Two Hundred Forty-Four Thousand One Hundred Twelve (244,112) square meters, by occupation and possession under the provisions of Sec. 48 (b)[3] of the Public Land Law or Commonwealth Act No. 141, as amended.

For having been in continuous, public, and adverse possession as owners of the said lot for at least thirty years, respondents stated that they were not aware of any person or entity who had a legal or equitable interest or claim on the same lot until the time they were requesting that the lot be declared for tax purposes. They found out that the lot was the subject of a land registration proceeding that had already been decided by the same court[4] where their complaint was filed. They also found out that Decree No. N-217313, LRC Record No. N-62686, was already issued on August 20, 1997 to the petitioner pursuant to the Decision dated June 7, 1994 of the same court. They averred that they were not notified of the said land registration case; thus, they claimed the presence of misrepresentation amounting to actual or extrinsic fraud. Thus, they argued that they were also entitled to a writ of preliminary injunction in order to restrain or enjoin petitioner, its privies, agents,

---

[3] Sec. 48. The following described-citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title thereafter, under the Land Registration Act, to wit:

x x x x x x x x x

(b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition or ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title, except when prevented by war or *force majeure*. Those shall be conclusively presumed to have performed all the conditions essential to a government grant and shall be entitled to a certificate of title under the provisions of this Chapter.

[4] Land Registration Case No. TG-423.

Supreme Court E-Library

representatives, and all other persons acting on its behalf, to refrain from committing acts of dispossession on the subject lot.

Summons, together with a copy of the complaint, were served on the petitioner on April 7, 1998. On April 29, 1998, petitioner filed an Entry of Appearance with Motion for Extension of Time,[5] which the trial court granted[6] for a period of ten (10) days within which to file a responsive pleading. Petitioner filed a Second Motion for Extension of Time to File Answer[7] dated April 29, 1998, which the trial court likewise granted.[8]

Thereafter, petitioner filed a Motion to Dismiss[9] dated May 9, 1998, stating that the pleading asserting the claim of respondents stated no cause of action, and that the latter were not entitled to the issuance of a writ of preliminary injunction, setting the same for hearing on May 21, 1998. On the date of the hearing, the trial court issued an Order,[10] which granted the respondents ten (10) days from that day to file a comment, and set the date of the hearing on July 23, 1998. Respondents filed a Motion to Admit Comment/Opposition to Defendant Eland,[11] together with the corresponding Comment/Opposition[12] dated June 8, 1998.

On the scheduled hearing of September 23, 1998, the trial court issued an Order,[13] considering the Motion to Dismiss submitted for resolution due to the non-appearance of the parties and their respective counsels. The said motion was eventually denied by the trial court in an Order[14] dated September 25,

[5] *Supra* note 2 at 51.

[6] *Id.* at 57.

[7] *Id.* at 68.

[8] *Id.* at 71.

[9] *Id.* at 58.

[10] *Id.* at 67.

[11] *Id.* at 97.

[12] *Id.* at 99.

[13] *Id.* at 146.

[14] *Id.* at 147.

Supreme Court E-Library

1998, ruling that the allegations in the complaint established a cause of action and enjoined petitioner Eland to file its answer to the complaint within ten (10) days from receipt of the same. Petitioner then filed two Motions for Extension to File an Answer.[15]

Petitioner, on November 9, 1998, filed a Motion for Reconsideration[16] of the trial court's Order dated September 25, 1998, denying the former's Motion to Dismiss. Again, petitioner filed a Motion for Final Extension of Time to File Answer[17] dated November 6, 1998. Respondents filed their Comment/Opposition to Motion for Reconsideration dated November 24, 1998. Subsequently, the trial court denied petitioner's motion for reconsideration in an Order[18] dated January 11, 1999.

Meanwhile, respondents filed a Motion to Declare Defendant Eland in Default[19] dated November 17, 1998. On December 4, 1998 Petitioner Eland filed its Comment (on Plaintiff's Motion to Declare Defendant Eland in Default)[20] dated December 2, 1998, while respondents filed a Reply to Comment (on Plaintiff's Motion to Declare Defendant Eland in Default)[21] dated December 29, 1998. Thereafter, the trial court issued an Order[22] dated January 11, 1999 declaring the petitioner in default and allowed the respondents to present evidence *ex parte*. Petitioner filed a Motion for Reconsideration (of the Order dated 11 January 1999)[23] dated February 5, 1999 on the trial court's denial of its motion to dismiss

---

[15] Motion for Extension to File Answer dated October 16, 1998 and Second Motion for Extension to File Answer dated October 28, 1998.

[16] *Supra* note 2 at 165.

[17] *Id.* at 168.

[18] *Id.* at 214.

[19] *Id.* at 173.

[20] *Id.* at 209.

[21] *Id.* at 204.

[22] *Id.* at 214.

[23] *Id.* at 224.

Supreme Court E-Library

and in declaring it in default. The trial court in an Order[24] dated March 18, 1999, denied the former and granted the latter. In the same Order, the trial court admitted petitioner's Answer *Ad Cautelam*.

Earlier, petitioner filed its Answer *Ad Cautelam* (With Compulsory Counterclaim)[25] dated November 12, 1998. Respondents countered by filing a Motion to Expunge Eland's Answer from the Records[26] dated December 2, 1998. Petitioner filed its Opposition (to Plaintiff's Motion to Expunge Eland's Answer from the Records)[27] dated December 21, 1998, as well as a Comment (on Plaintiff's Motion to Expunge Eland's Answer from the Records)[28] dated January 26, 1999.

Consequently, respondents filed a Motion to Set Presentation of Evidence *Ex Parte*[29] dated January 18, 1999, which was granted in an Order[30] dated January 22, 1999.

On January 28, 1999, respondents presented their evidence before the Clerk of Court of the trial court which ended on February 3, 1999; and, on February 10, 1999, respondents filed their Formal Offer of Evidence.[31] However, petitioner filed an Urgent Motion to Suspend Plaintiff's *Ex Parte* Presentation of Evidence[32] dated February 8, 1999. In that regard, the trial court issued an Order[33] dated February 11, 1999 directing the Clerk of Court to suspend the proceedings.

---

[24] *Id.* at 305.

[25] *Id.* at 177.

[26] *Id.* at 197.

[27] *Id.* at 200.

[28] *Id.* at 221.

[29] *Id.* at 218.

[30] *Id.* at 220.

[31] *Id.* at 239.

[32] *Id.* at 235.

[33] *Id.* at 248.

Supreme Court E-Library

On May 14, 1999, respondents filed a Motion for Clarification[34] as to whether or not the evidence presented *ex parte* was nullified by the admission of petitioner's Answer *Ad Cautelam.* Petitioner filed its Comment[35] dated May 13, 1999 on the said motion for clarification.

A pre-trial conference was scheduled on May 27, 1999, wherein the parties submitted their pre-trial briefs.[36] However, petitioner filed a Motion to Suspend Proceedings[37] dated May 24, 1999 on the ground that the same petitioner had filed a petition for *certiorari* with the CA, asking for the nullification of the Order dated March 18, 1999 of the trial court and for the affirmation of its earlier Order denying petitioner's Motion to Dismiss. The petition for *certiorari* was subsequently denied; and a copy of the Resolution[38] dated June 14, 1999 was received by the trial court. Hence, in an Order[39] dated July 7, 1999, the trial court ruled that the reception of evidence already presented by the respondents before the Clerk of Court remained as part of the records of the case, and that the petitioner had the right to cross-examine the witness and to comment on the documentary exhibits already presented. Consequently, petitioner filed a Motion for Reconsideration[40] dated July 19, 1999, but it was denied by the trial court in an Omnibus Order[41] dated September 14, 1999.

Eventually, respondents filed a Motion for Summary Judgment[42] dated August 5, 1999, while petitioner filed its

---

[34] *Id.* at 376.

[35] *Id.* at 379.

[36] *Id.* at 370 for the respondents, p. 394 for petitioner.

[37] *Id.* at 398.

[38] *Id.* at 486.

[39] *Id.* at 491.

[40] *Id.* at 492.

[41] *Id.* at 520.

[42] *Id.* at 506.

Supreme Court E-Library

Opposition[43] to the Motion dated August 31, 1999. In its Resolution[44] dated November 3, 1999, the trial court found favor on the respondents. The dispositive portion of the Resolution reads:

> WHEREFORE, premises considered, the motion for summary judgment is hereby GRANTED and it is hereby adjudged that:
>
> 1. Plaintiffs are the absolute owners and rightful possessors of Lot 9250, CAD-355, Tagaytay Cadastre, subject to the rights of occupancy of the farm workers on the one-third area thereof;
>
> 2. The Judgment dated June 7, 1994 in Land Registration Case No. TG-423 is set aside and the Decree No. N-217313, LRC Record No. N-62686 dated August 20, 1997 is null and void;
>
> 3. The Original Transfer Certificate of Title is ordered to be canceled, as well as tax declaration covering Lot 9250, Cad-355.
>
> SO ORDERED.

Petitioner appealed the Resolution of the trial court with the CA, which dismissed it in a Decision dated February 28, 2006, which reads:

> WHEREFORE, for lack of merit, the appeal is DISMISSED. The assailed Resolution dated November 3, 1999, of the RTC, Branch 18, Tagaytay City, in Civil Case No. TG-1784, is AFFIRMED. No pronouncement as to cost.
>
> SO ORDERED.

Hence, the present petition.

The grounds relied upon by the petitioner are the following:

> 5.1 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT RULED THAT RESPONDENTS' MOTION FOR SUMMARY JUDGMENT DATED AUGUST 05, 1999 DID NOT VIOLATE THE TEN (10)-DAY NOTICE RULE UNDER SECTION 3, RULE 35 OF THE 1997 RULES OF CIVIL PROCEDURE.

---

[43] *Id.* at 513.

[44] *Id.* at 522.

Supreme Court E-Library

5.2 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT RULED THAT A MOTION FOR SUMMARY JUDGMENT IS PROPER IN AN ACTION FOR QUIETING OF TITLE.

5.3 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT RULED THAT THERE ARE NO GENUINE FACTUAL AND TRIABLE ISSUES IN CIVIL CASE NO. TG-1784.

5.4 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT UPHELD THE RESOLUTION DATED NOVEMBER 03, 1999 OF THE COURT *A QUO*, BASED ON TESTIMONIES OF RESPONDENTS' WITNESSES TAKEN WITHOUT GRANTING HEREIN PETITIONER THE RIGHT TO CROSS-EXAMINE AND UPON DOCUMENTARY EXHIBITS PRESENTED BUT NOT ADMITTED AS EVIDENCE.

5.5 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT UPHELD THE RESOLUTION DATED NOVEMBER 03, 1999 OF THE COURT *A QUO* BASED ON FALSIFIED "EVIDENCE."

5.6 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT FAILED TO RULE THAT THE COURT *A QUO* PATENTLY DEPRIVED PETITIONER OF ITS RIGHT TO DUE PROCESS IN RENDERING ITS SUMMARY JUDGMENT.

5.7 THE COURT OF APPEALS ACTED IN A MANNER NOT IN ACCORD WITH LAW AND WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT WHEN IT HELD THAT THE COURT *A QUO* HAS JURISDICTION TO CANCEL PETITIONER'S ORIGINAL CERTIFICATE OF TITLE (OCT) NO. 0-660 IN AN ACTION TO QUIET TITLE.

According to the petitioner, a motion for summary judgment must be served at least ten (10) days before the date set for hearing thereof, and that a hearing must be held to hear the parties on the propriety of a summary judgment, per Sec. 3 of

Supreme Court E-Library

Rule 35 of the Revised Rules of Court, which was not observed because the petitioner received a copy of the respondents' motion for summary judgment only on August 20, 1999, or the very same day that the motion was set for hearing. Petitioner further claims that the trial court never conducted any hearing on the motion for summary judgment.

Petitioner also argued that a summary judgment is only available to a claimant seeking to recover upon a claim, counterclaim or cross-claim or to obtain a declaratory relief, and does not include cases for quieting of title. Furthermore, petitioner also averred that a summary judgment has no place in a case where genuine factual and triable issues exist, like in the present case. It added that the genuine and triable issues were all raised in its Answer *Ad Cautelam.*

Another ground relied upon by petitioner is its failure to cross-examine the witnesses for the respondents without fault on its part. It also stated that the trial court did not issue any order admitting in evidence the documentary exhibits presented by the respondents. Hence, according to the petitioner, the trial court gravely erred in relying upon the testimonies of the witnesses for the respondents, without having the latter cross-examined; and upon the documentary exhibits presented but not admitted as evidence.

Petitioner further claimed that the trial court based its Resolution dated November 3, 1999 on falsified evidence.

Lastly, petitioner raised the issue that by rendering summary judgment, the trial court deprived the former of its right to due process.

Respondents, in their Comment[45] dated October 16, 2006, countered the first issue raised by the petitioner, stating that their filing of the motion for summary judgment fourteen (14) days before the requested hearing of the same motion was in compliance with Sec. 3, Rule 35 of the Rules of Court.

---

[45] *Rollo,* p. 469.

Supreme Court E-Library

As to the second and third issues, respondents argued that petitioner had a constricted perception of the coverage of the Rules of Summary Judgment, and that the latter's citation of cases decided by this Court showed the diverse causes of action that could be the subject matters of summary judgment. Respondents also posited that petitioner's statements in its Answer *Ad Cautelam*, although denominated as Specific Denial, were really general denials that did not comply with the provisions of Section 10, Rule 8 of the Rules of Court.

Anent the fourth and fifth issues, respondents claimed that despite the opportunity, or the right allowed in the Order dated July 17, 1999 of the trial court, for the petitioner to cross-examine respondents' witnesses and to comment on the documentary evidence presented *ex parte* after the default order against the same petitioner, the latter evasively moved to set aside respondents' evidence in order to suspend further proceedings that were intended to abort the pre-trial conference. They added that petitioner neglected to avail itself of, or to comply with, the prescription of the rules found in Rule 35 of the Rules of Court by opting not to avail itself of the hearing of its opposition to the summary judgment after receiving the Order dated August 20, 1999; by failing to serve opposing affidavit, deposition or admission in the records; and by not objecting to the decretal portion of the said Order dated August 20, 1999, which stated that the motion for summary judgment has been submitted for resolution without further argument. With regard to the contention of the petitioner that the trial court wrongly appreciated falsified evidence, respondents asserted that petitioner's counsel failed to study carefully the records of the proceedings for the presentation of the evidence *ex parte* to be able to know that it was not only a single-day proceeding, and that more than one witness had been presented. They further averred that the trial court did not only rely on the photographs of the houses of the occupants of the property in question.

Finally, as to the sixth and seventh issues, respondents asseverated that their complaint alleged joint causes of action for quieting of title under Art. 476 of the New Civil Code and for the review of the decree of registration pursuant to Sec. 32

Supreme Court E-Library

of the Property Registration Decree or P.D. No. 1529, because they are complimentary with each other.

The petition is impressed with merit.

The basic contention that must be resolved by this Court is the propriety of the summary judgment in this particular case of quieting of title.

Rule 35 of the 1997 Rules of Civil Procedure provides:

SEC. 1. *Summary judgment for claimant*. — A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits for a summary judgment in his favor upon all or any part thereof.

SEC. 3. *Motion and proceedings thereon.* —The motion shall be served at least ten (10) days before the time specified for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. After the hearing, the judgment sought shall be rendered forthwith if the pleading, depositions, and admissions on file together with the affidavits, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.[46]

In the present case, it was the respondents who moved for a summary judgment.

Petitioner contended that the ten-day notice rule was violated, because the copy of the motion for summary judgment was served only on August 20, 1999 or on the same day it was set for hearing. It also added that even if the petitioner received a copy of the motion only on August 20, 1999, there was no hearing conducted on that date because the trial court issued an order giving petitioner 10 days within which to file its comment or opposition.

The above specific contention, however, is misguided. The CA was correct in its observation that there was substantial compliance with due process. The CA ruled, as the records

[46] Now Secs.1 and 3, Rule 35, 1997 Rules of Civil Procedure.

Supreme Court E-Library

show, that the ten-day notice rule was substantially complied with because when the respondents filed the motion for summary judgment on August 9, 1999, they furnished petitioner with a copy thereof on the same day as shown in the registry receipt and that the motion was set for hearing on August 20, 1999, or 10 days from the date of the filing thereof.

Due process, a constitutional precept, does not, therefore, always and in all situations a trial-type proceeding. The essence of due process is found in the reasonable opportunity to be heard and submit one's evidence in support of his defense. What the law prohibits is not merely the absence of previous notice, but the absence thereof *and* the lack of opportunity to be heard.[47]

Petitioner further argues that summary judgment is not proper in an action for quieting of title. This particular argument, however, is misplaced. This Court has already ruled that any action can be the subject of a summary judgment with the sole exception of actions for annulment of marriage or declaration of its nullity or for legal separation.[48]

Proceeding to the main issue, this Court finds that the grant of summary judgment was not proper. A summary judgment is permitted only if there is no genuine issue as to any material fact and a moving party is entitled to a judgment as a matter of law. A summary judgment is proper if, while the pleadings on their face appear to raise issues, the affidavits, depositions, and admissions presented by the moving party show that such issues are not genuine.[49]

---

[47] *Mutuc v. Court of Appeals*, G.R. No. L-48108, September 26, 1990, 190 SCRA 43.

[48] See *Carlos v. Sandoval, et al.*, G. R. No. 179922, December 16, 2008, 574 SCRA 116, citing *Republic v. Sandiganbayan*, G.R. No. 152154, November 18, 2003, 416 SCRA 133, citing Family Code, Arts. 48 & 60, and *Roque v. Encarnacion*, 96 Phil. 643 (1954).

[49] *Mariano Nocom v. Oscar Camerino, et al.*, G. R. No. 182984, February 10, 2009, 578 SCRA 390, citing *Ong v. Roban Lending Corporation*, G.R. No. 172592, July 9, 2008, 557 SCRA 516.

Supreme Court E-Library

It must be remembered that the **non-existence of a genuine issue** is the determining factor in granting a motion for summary judgment, and the **movant has the burden** of proving such nonexistence. The trial court found no genuine issue as to any material fact that would necessitate conducting a full-blown trial. However, a careful study of the case shows otherwise.

In their motion for summary judgment, the respondents failed to clearly demonstrate the absence of any genuine issue of fact. They merely reiterated their averments in the complaint for quieting of title and opposed some issues raised by the petitioner in its Answer *Ad Cautelam*, to wit:

> Nonetheless, going by the records of the admitted and uncontroverted facts and facts established there is no more litigious or genuine issue of basic fact to be the subject of further trial on the merits.
>
> The first defense as to the identity of the subject property, the issue has already become nil because of not only the lack of seriousness in the allegations but also because the identity of the subject parcel of land Lot 9250 was proven by the approved plan Ap-04-008367 that was already presented and offered in evidence as Exhibit "B" for the plaintiffs.
>
> The second defense that plaintiffs' claim of the property is barred by prior judgment rule is unavailing considering that the vital documentary evidence they presented in Land Registration Case No. TG-423 before this Honorable Court the markings and descriptions of such documents are stated in the Judgment quoted as follows:
>
> (1) Tax Declaration No. 015224-A (Exhibit "Q"; x x x.
> (2) Tax Declaration No. 05019-B (Exhibit "R"; x x x.
> (3) Tax Declaration No. 01926-B (Exhibit "S"; x x x.
> (4) Tax Declaration No. GR-007-0007 (Exhibit "T" x x x.
>
> are the very documentary evidence adopted and relied upon by the plaintiffs in seeking the review and nullity of the Decree No. 217313 issued on August 20, 1997 under LRC Record No. N-62686 pursuant to the Judgment dated June 7, 1994 rendered by this Honorable Court penned by the acting presiding Judge Eleuterio F. Guerrero in said Land Registration Case No. TG-423.

Supreme Court E-Library

On the other hand, as to the gravamen of the claims in the complaint, the plaintiffs have presented clear and convincing evidence as the well-nigh or almost incontrovertible evidence of a registerable title to the subject land in the proceedings conducted on the reception of evidence *ex-parte* for the plaintiffs establishing in detail the specifications of continuous, open, exclusive possession as aspects of acquisitive prescription as confirmed in the affidavit herein attached as Annex "A";

In ruling that there was indeed no genuine issue involved, the trial court merely stated that:

This Court, going by the records, observed keenly that plaintiffs' **cause of action** for quieting of title on the disputed parcel of land is based on the alleged **fraud in the substitution** of their landholdings of Lot 9250, Cad 355, Tagaytay Cadastre containing only an area of 244,112 square meters with Lot 9121, Cad 335, Tagaytay Cadastre, containing only an area of 19,356 square meters. While defendant Eland in its answer practically and mainly interposed the defenses of: (a) the parcel of land being claimed by the plaintiffs is not the parcel of land subject matter of Land Registration Case No. TG-423; (b) the claim of the plaintiffs is barred by prior judgment of this Court in said Land Registration Case; and (c) plaintiffs' complaint is barred by the Statute of Limitation since Original Certificate of Title No. 0-660 has become incontrovertible.

Cross-reference of the above-cited Land Registration Case No. TG-423 that was decided previously by this Court with the case at bench was imperatively made by this Court. Being minded that the Court has and can take judicial notice of the said land registration case, this Court observed that there is no genuine issue of fact to be tried on the merits. Firstly, because the supposed identity crisis of the controverted parcel of land covered by the Land Registration Case No. TG-423 with the subject parcel of land is established by Plan Ap-04-006275 (Exhibit "N") LRC Case No. 423 and by Plan A04 008367 (Exhibit "B" of the plaintiffs) and the Technical Description of Lot 9250, Cad 355 (Exhibit "B-1" of the plaintiffs). Secondly, the prior judgment rule cannot be availed of by defendant Eland since not only intrinsic fraud but extrinsic fraud were alleged in and established by the records. (*Heirs of Manuel Roxas v. Court of Appeals*, G. R. No. 118436, pro. March 21, 1997). Thirdly, it is incontrovertible that the complaint in this case seeking to review the judgment and annul the decree was filed on March 5, 1998 or

Supreme Court E-Library

within one (1) year from August 20, 1997 or the date of issuance of Decree No. 217313, LRC Record No. N-62686, hence, the Original Certificate of Title No. 0-660 issued to defendant Eland has not attained incontrovertibility. (*Heirs of Manuel Roxas v. Court of Appeals*, G.R. No. 118436, prom. March 21, 1997).

Notwithstanding, the **issue of possession is a question of fact by the interaction of the basic pleadings**, the observation of this Court is that the plaintiffs were able to prove by the well-nigh incontrovertible evidence, the aspects of possession in accordance with Section 48 (b) of Commonwealth Act 141, as amended, as hereinafter illustrated.

The CA, in affirming the above Resolution of the trial court, propounded thus:

The contention of defendant-appellant is untenable. Summary judgment is not only limited to solving actions involving money claims. Under Rule 35 of the 1997 Rules of Court, except as to the amount of damages, when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law, summary judgment may be allowed. The term "genuine issue" has been defined as an issue of fact which calls for the presentation of evidence as distinguished from an issue which is sham, fictitious, contrived, set up in bad faith and patently unsubstantial so as not to constitute a genuine issue for trial.

Thus, under the aforecited rule, summary judgment is appropriate when there are no genuine issues of fact, which call for the presentation of evidence in a full-blown trial. Thus, even if on their face the pleadings appear to raise issues, but when the affidavits, depositions and admissions show that such issues are not genuine, then summary judgment as prescribed by the rules must ensue as a matter of law.

It should be stressed that the court *a quo* which rendered the assailed resolution in Civil Case No. TG-1784 was the very court that decided the LRC Case No. TG-423. Such being the case, the court *a quo* was privy to all relevant facts and rulings pertaining to LRC Case No. TG-423 which it considered and applied to this case. Thus, where all the facts are within the judicial knowledge of the court, summary judgment may be granted as a matter of right.

Supreme Court E-Library

On the contrary, in petitioner's Answer *Ad Cautelam*, genuine, factual and triable issues were raised, aside from specifically denying all the allegations in the complaint, thus:

2. SPECIFIC DENIALS

2.1 Answering defendant specifically denies the allegations contained in paragraphs 1 and 3 of the Complaint insofar as it alleges the personal circumstances of the plaintiff and one A. F. Development Corporation for lack of knowledge or information sufficient to form a belief as to the truth thereof.

2.2 Answering defendant specifically denies the allegations contained in paragraphs 4, 5, 6 and 7 of the Complaint for lack of knowledge or information sufficient to form a belief as to the truth of said allegations. And if the property referred to in said paragraphs is that parcel of land which was the subject matter of Land Registration Case No. TG-423 which was previously decided by this Honorable Court with finality, said allegations are likewise specifically denied for the obvious reason that the said property had already been adjudged with finality by no less than this Honorable Court as absolutely owned by herein answering defendant as will be further discussed hereunder.

2.3 Answering defendant specifically denies the allegations contained in paragraph 8 of the Complaint insofar as it alleged that "(u)pon exercise of further circumspection, counsel for the plaintiffs once followed-up in writing the 1994 request of the plaintiffs to have the subject parcel of land be declared for taxation purposes" and insofar as it is made to appear that parcel of land being claimed by the plaintiffs is the same parcel of land subject matter of Land Registration Case No. TG-423 for lack of knowledge or information sufficient to form a belief as to the truth thereof and for the reason that the names of the herein plaintiffs were never mentioned during the entire proceedings in said land registration case and by reason of the Affirmative Allegations contained hereunder.

2.4 Answering defendant specifically denies the allegations contained in paragraphs 9, 10, 10 (a), 10 (b), 10 (c), 10 (d), 10 (e), 10 (f), 10 (g), 10 (h), and 11 for the reason that there is no showing that the parcel of land being claimed by the plaintiff is the same parcel of land which was the subject matter of Land Registration Case No. TG- 423, and in the remote possibility that the parcel of land being claimed by the plaintiffs is the same as that parcel of land subject of Land Registration Case No. TG-423, the allegations

Supreme Court E-Library

contained in said paragraphs are still specifically denied for the reason that no less than the Honorable Court had decided with finality that the parcel of land is absolutely owned by herein defendant to the exclusion of all other persons as attested to by the subsequent issuance of an Original Certificate of Title in favor of answering defendant and for reasons stated in the Affirmative Allegations.

2.5 Answering defendant specifically denies the allegations contained in paragraph 12 of the Complaint for the obvious reason that it was the plaintiffs who appear to have been sleeping on their rights considering that up to the present they still do not have any certificate of title covering the parcel of land they are claiming in the instant case, while on the part of herein defendant, no less than the Honorable Court had adjudged with finality that the parcel of land subject matter of Land Registration Case No. TG-423 is absolutely owned by herein defendant.

2.6 Answering defendant specifically denies the allegations contained in paragraph 13 of the complaint for the reason that defendant has never ladgrabbed (sic) any parcel of land belonging to others, much less from the plaintiffs, and further, answering defendant specifically denies the allegations therein that plaintiffs engaged the services of a lawyer for a fee for lack of knowledge r (sic) information sufficient to form a belief as to the truth thereof.

2.7 Answering defendant specifically denies the allegations contained in paragraphs 14, 15, 16, 17 and 18 of the Complaint for lack of knowledge or information sufficient to form a belief as the truth thereof.

2.8 Answering defendant specifically denies the allegations contained in paragraphs IV (a) to IV (c) for the reason that, as above-stated, if the parcel of land being claimed by the plaintiffs is the same as that parcel of land subject matter of Land Registration Case No. TG-423, this Honorable Court had already decided with finality that said parcel of land is absolutely owned by herein answering defendant and additionally, for those reasons stated in defendant's Motion to Dismiss.

2.9 Answering defendant specifically denies the allegations contained in paragraph IV (d) of the Complaint for lack of knowledge or information sufficient to form a belief as to the truth thereof.

Special and affirmative defenses were also raised in the same Answer *Ad Cautelam*, to wit:

Supreme Court E-Library

x x x x x x x x x

4.1 The pleading asserting the claim of the plaintiff states no cause of action as asserted in the Motion To Dismiss filed by herein answering defendant and for the reason that there is no evidence whatsoever showing or attesting to the fact that the parcel of land being claimed by the plaintiffs in the Complaint is the same parcel of land which was the subject matter of Land Registration Case No. TG-423.

4.2 The complaint was barred by the prior judgment rendered by this Honorable in Land Registration Case No. TG-423.

4.3 The complaint is barred by the Statute of Limitation in that OCT No. 0-660 had become incontrovertible by virtue of the Torrens System of Registration; and to allow plaintiffs to question the validity of answering defendant's title through the instant complaint would be a collateral of OCT No. 0-660 which is not permissible under the law.

4.4 Plaintiffs are barred by their own acts and/or omission from filing the present complaint under the principles of estoppel and laches.

4.5 Plaintiffs does not to the Court with clean hands as they appear to be well aware of the proceedings in said Land Registration Case No. TG- 423 and inspite of such knowledge, plaintiffs never bothered to present their alleged claims in the proceedings.

4.6 Answering defendant has always acted with justice, given everyone his due, and observed honesty and good faith in his dealings.

Clearly, the facts pleaded by the respondents in their motion for summary judgment have been duly disputed and contested by petitioner, raising genuine issues that must be resolved only after a full-blown trial. When the facts as pleaded by the parties are disputed or contested, proceedings for summary judgment cannot take the place of trial.[50] In the present case, the petitioner was able to point out the genuine issues. A "genuine issue" is

---

[50] *National Power Corporation v. Loro, et al.*, G. R. No. 175176, October 17, 2008, 569 SCRA 648, citing *Rivera v. Solidbank Corporation*, G.R. No. 163269, April 19, 2006, 487 SCRA 512, 535.

Supreme Court E-Library

an issue of fact that requires the presentation of evidence as distinguished from a sham, fictitious, contrived or false claim.[51]

It is of utmost importance to remember that petitioner is already the registered owner (Original Certificate of Title [OCT] No. 0-660 issued by the Register of Deeds) of the parcel of land in question, pursuant to a decree of registration (Decree No. N-217313, LRC Record No. 62686) based on the ruling of the same court that granted the summary judgment for the quieting of title.

Incidentally, the findings of the trial court contained in the disputed summary judgment were obtained through judicial notice of the facts and rulings pertaining to that earlier case (LRC Case No. TG-423) wherein the same trial court ruled in favor of the petitioner. It is, therefore, disorienting that the same trial court reversed its earlier ruling, which categorically stated that:

> x x x There is overwhelming evidence or proof on record that the vendors listed in Exhibit "HH", with submarkings, are the previous owners of the parcel of land mentioned in the same deed of sale and aside form the tax declarations covering the same property (Exhibits "Q" to "T", inclusive), the uncontroverted testimony of Atty. Ruben Roxas establishes beyond any shadow of doubt that applicant's (referring to herein defendant-appellant) sellers/ predecessors-in-interest are the grandchildren, great grandchildren and great great grandchildren of the spouses Lucio Petate and Maria Pobleta Petate, the former owners of the same property, whose ownership is further bolstered by tax receipts showing payments of realty taxes (Exhibits "U" to "GG", inclusive, with submarkings).
>
> x x x x x x x x x
>
> On the basis of the foregoing facts and circumstances, and considering that applicant is a domestic corporation not otherwise disqualified from owning real properties in the Philippines, this Court finds that applicant has satisfied all the conditions/requirements essential to the grant of its application pursuant to the provisions of the Land Registration Law, as amended, inspite of the opposition filed by the Heirs of the late Doroteo Miranda. Hence, the grant of applicant's petition appears to be inevitable.

[51] *Id.*

Supreme Court E-Library

WHEREFORE, this Court hereby approves the instant petition for land registration and, thus, places under the operation of Act 141, Act 496 and/or P.D. 1529, otherwise known as the Property Registration Law, the land described in Plan Ap-04-006275 and containing an area of Two Hundred Forty-Two Thousand Seven Hundred Ninety-Four (242,794) square meters, as supported by its technical description now forming part of the record of this case, in addition to other proofs adduced in the name of the applicant, ELAND PHILIPPINES, INC., with principal office at No. 43 E. Rodriguez Ave. (España Extension), Quezon City, Metro Manila.

Once this decision becomes final and executory, the corresponding decree of registration shall forthwith issue.

SO ORDERED.

By granting the summary judgment, the trial court has in effect annulled its former ruling based on a claim of possession and ownership of the same land for more than thirty years without the benefit of a full-blown trial. The fact that the respondents seek to nullify the original certificate of title issued to the petitioner on the claim that the former were in possession of the same land for a number of years, is already a clear *indicium* that a genuine issue of a material fact exists. This, together with the failure of the respondents to show that there were no genuine issues involved, should have been enough for the trial court to give the motion for summary judgment, filed by respondents, scant consideration. Trial courts have limited authority to render summary judgments and may do so only when there is clearly no genuine issue as to any material fact.[52]

Based on the foregoing, this Court deems it necessary to delve briefly on the nature of the action of quieting of title as

---

[52] *Concrete Aggregates Corp. v. CA, et al.*, G. R. No. 117574, January 2, 1997, 266 SCRA 88, citing *Archipelago Builders v. Intermediate Appellate Court*, G.R. No. 75282, February 19, 1991, 194 SCRA 207, 212, citing *Auman v. Estenzo.*, No. L- 40500, 27 February 1976, 69 SCRA 524; *Loreno v. Estenzo*, No. L-43306, 29 October 1976, 73 SCRA 630; *Viajar v. Estenzo*, No. L- 45321, 30 April 1979, 89 SCRA 684.

Supreme Court E-Library

applied in this case. This Court's ruling in *Calacala, et al. v. Republic, et al.*[53] is instructive on this matter, thus:

To begin with, it bears emphasis that an action for quieting of title is essentially a common law remedy grounded on equity. As we held in *Baricuatro, Jr. vs. CA*:[54]

> Regarding the nature of the action filed before the trial court, quieting of title is a common law remedy for the removal of any cloud upon or doubt or uncertainty with respect to title to real property. Originating in equity jurisprudence, its purpose is to secure 'x x x an adjudication that a claim of title to or an interest in property, adverse to that of the complainant, is invalid, so that the complainant and those claiming under him may be forever afterward free from any danger of hostile claim.' In an action for quieting of title, the competent court is tasked to determine the respective rights of the complainant and other claimants, 'x x x not only to place things in their proper place, to make the one who has no rights to said immovable respect and not disturb the other, but also for the benefit of both, so that he who has the right would see every cloud of doubt over the property dissipated, and he could afterwards without fear introduce the improvements he may desire, to use, and even to abuse the property as he deems best xxx'.

Under Article 476 of the New Civil Code, the remedy may be availed of only when, by reason of any instrument, record, claim, encumbrance or proceeding, which appears valid but is, in fact, invalid, ineffective, voidable, or unenforceable, a cloud is thereby cast on the complainant's title to real property or any interest therein. The codal provision reads:

> Article 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

---

[53] G. R. No. 154415, July 28, 2005, 464 SCRA 438.

[54] 382 Phil. 15, 25 (2000).

Supreme Court E-Library

In turn, Article 477 of the same Code identifies the party who may bring an action to quiet title, thus:

> Article 477. The plaintiff must have legal or equitable title to, or interest in the real property which is the subject-matter of the action. He need not be in possession of said property.

It can thus be seen that for an action for quieting of title to prosper, the plaintiff must first have a legal, or, at least, an equitable title on the real property subject of the action and that the alleged cloud on his title must be shown to be in fact invalid. So it is that in *Robles, et al. vs. CA*,[55] we ruled:

> It is essential for the plaintiff or complainant to have a legal title or an equitable title to or interest in the real property which is the subject matter of the action. Also, the deed, claim, encumbrance or proceeding that is being alleged as a cloud on plaintiff's title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.

Verily, for an action to quiet title to prosper, two (2) indispensable requisites must concur, namely: (**1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.**

Respondents, in their Complaint, claim that they have become the owners in fee-simple title of the subject land by occupation and possession under the provisions of Sec. 48 (b) of the Public Land Law or Commonwealth Act No. 141, as amended. Thus, it appears that the first requisite has been satisfied. Anent the second requisite, respondents enumerated several facts that would tend to prove the invalidity of the claim of the petitioner. All of these claims, which would correspond to the two requisites for the quieting of title, are factual; and, as discussed earlier, the petitioner interposed its objections and duly disputed the said claims, thus, presenting genuine issues that can only be resolved through a full-blown trial.

---

[55] 384 Phil. 635, 647 (2000).

Supreme Court E-Library

Anent the propriety of the filing of an action for the quieting of title, the indefeasibility and incontrovertibility of the decree of registration come into question. Under Sec. 32 of P.D. No. 1529 or the Property Registration Decree:

> Section 32. Review of decree of registration; Innocent purchaser for value. The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgments, subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.
>
> **Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible.** Any person aggrieved by such decree of registration in any case may pursue his remedy by action for damages against the applicant or any other persons responsible for the fraud.

As borne out by the records and undisputed by the parties, OCT No. 0-660 of petitioner was issued on August 29, 1997 pursuant to a Decree issued on August 20, 1997, while the complaint for the quieting of title in Civil Case No. TG-1784 was filed and docketed on March 5, 1998; hence, applying the above provisions, it would seem that the period of one (1) year from the issuance of the decree of registration has not elapsed for the review thereof. However, a closer examination of the above provisions would clearly indicate that the action filed, which was for quieting of title, was not the proper remedy.

Courts may reopen proceedings already closed by final decision or decree when an application for review is filed by the party aggrieved within one year from the issuance of the decree of

Supreme Court E-Library

registration.[56] However, the basis of the aggrieved party must be anchored solely on actual fraud. Shedding light on the matter is a discussion presented in one of the recognized textbooks on property registration,[57] citing decisions of this Court, thus:

> The right of a person deprived of land or of any estate or interest therein by adjudication or confirmation of title obtained by actual fraud is recognized by law as a valid and legal basis for reopening and revising a decree of registration.[58] **One of the remedies available to him is a petition for review**. To avail of a petition for review, the following requisites must be satisfied:
>
> (a) The petitioner must have an estate or interest in the land;
>
> (b) He must show actual fraud in the procurement of the decree of registration;
>
> (c) The petition must be filed within one year from the issuance of the decree by the Land Registration Authority; and
>
> (d) The property has not yet passed to an innocent purchaser for value.[59]
>
> A mere claim of ownership is not sufficient to avoid a certificate of title obtained under the Torrens system. **An important feature of a certificate of title is its finality.** The proceedings whereby such a title is obtained are directed against all persons, known or unknown, whether actually served with notice or not, and includes all who have an interest in the land. If they do not appear and oppose the registration of their own estate or interest in the property in the name of another, judgment is rendered against them by default, and, in the absence of fraud, such judgment is conclusive. If an interest in the land will not by itself operate to vacate a decree of registration, *a fortiori*, fraud is not alone sufficient to do so.[60]

---

[56] *Lopez v. Padilla*, G. R. No. L-27559, May 18, 1972, 45 SCRA 44.

[57] Justice Agcaoili (ed.), *Property Registration Decree and Related Laws (Land Titles and Deeds*), 297-298 (2006).

[58] *Serna v. CA*, G. R. No. 124605, June 18, 1999, 308 SCRA 527.

[59] *Walstrom v. Mapa*, G. R. No. 38387, January 29, 1990, 181 SCRA 431; *Cruz v. Navarro*, G. R. No. L-27644, November 29, 1973, 54 SCRA 109; *Libudan v. Palma Gil*, G. R. No. L-21164, May 17, 1972, 45 SCRA 17.

[60] 26 Phil. 581 (1914).

Supreme Court E-Library

As further pointed out in the same book,[61] the petition for review must be filed within one year from entry of the decree of registration. As written:

As long as a final decree has not been entered by the Land Registration Authority and period of one year has not elapsed from the date of entry of such decree, the title is not finally adjudicated and the decision in the registration case continues to be under the control and sound discretion of the registration court.[62] After the lapse of said period, the decree becomes incontrovertible and no longer subject to reopening or review.

Section 32 provides that a petition for review of the decree of registration may be filed "not later than one year from and after the date of entry of such decree of registration." Giving this provision a literal interpretation, it may at first blush seem that the petition for review cannot be presented until the final decree has been entered. However, it has been ruled that **the petition may be filed at any time after the rendition of the court's decision and before the expiration of one year from the entry of the final decree of registration** for, as noted in *Rivera v. Moran*,[63] there can be no possible reason requiring the complaining party to wait until the final decree is entered before urging his claim for fraud.

The one-year period stated in Sec. 32 within which a petition to re-open and review the decree of registration refers to the decree of registration described in Section 31, which decree is prepared and issued by the Land Registration Administrator.[64]

The provision of Section 31 that every decree of registration shall bind the land, quiet title thereto, and be conclusive upon and against all persons, including the national government, and Sec. 32 that the decree shall not be reopened or revised by reason of absence, minority or other disability or by any proceeding in court, save only in cases of actual fraud and then only for one year from the entry of the decree, must be understood as referring to final and unappealable decrees of registration. A decision or, as it is sometimes called after entry,

---

[61] *Supra* note 57 at 302-304.

[62] *Gomez v. CA*, G. R. No. 77770, December 15, 1988, 168 SCRA 491.

[63] 48 Phil. 836 (1926).

[64] *Ramos v. Rodriguez*, G.R. No. 94033, May 29, 1995, 244 SCRA 418.

Supreme Court E-Library

a decree of a registration court, does not become final and unappealable until fifteen days after the interested parties have been notified of its entry, and during that period may be set aside by the trial judge on motion for new trial, upon any of the grounds stated in the Rules of Court.[65] An appeal from the decision of the trial court prevents the judgment from becoming final until that decree is affirmed by the judgment of the appellate court.[66]

A petition for review under Section 32 is a remedy separate and distinct from a motion for new trial and the right to the remedy is not affected by the denial of such a motion irrespective of the grounds upon which it may have been presented. Thus, where petitioners acquired their interest in the land before any final decree had been entered, the litigation was therefore in effect still pending and, in these circumstances, they can hardly be considered innocent purchasers in good faith.[67]

Where the petition for review of a decree of registration is filed within the one-year period from entry of the decree, it is error for the court to deny the petition without hearing the evidence in support of the allegation of actual and extrinsic fraud upon which the petition is predicated. The petitioner should be afforded an opportunity to prove such allegation.[68]

In the present case, the one-year period before the Torrens title becomes indefeasible and incontrovertible has not yet expired; thus, a review of the decree of registration would have been the appropriate remedy.

Based on the above disquisitions, the other issues raised by the petitioner are necessarily rendered inconsequential.

WHEREFORE, the petition for review on *certiorari* of petitioner Eland Philippines, Inc. is hereby *GRANTED,* and the decision dated February 28, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 67417, which dismissed the appeal of

---

[65] *Roman Catholic Archbishop of Manila v. Sunico,* 36 Phil. 279 (1917).

[66] *Supra* note at 60.

[67] *Rivera v. Moran*, 48 Phil. 863 (1926).

[68] *Republic v. Sioson,* G. R. No. L-13687, November 29, 1963, 9 SCRA 533.

Supreme Court E-Library

petitioner Eland Philippines, Inc. and affirmed the resolutions dated November 3, 1999 of Branch 18, RTC of Tagaytay City, is hereby *REVERSED* and *SET ASIDE*. Consequently, the resolution dated November 3, 1999 of Branch 18, RTC of Tagaytay City in Civil Case No. TG-1784 are hereby declared *NULL* and *VOID*.

SO ORDERED.

Corona (Chairperson), Carpio,[*] *Nachura,* and *Mendoza, JJ.*, concur.

THIRD DIVISION

[G.R. No. 174570. February 17, 2010]

ROMER SY TAN, *petitioner, vs.* **SY TIONG GUE, FELICIDAD CHAN SY, SY CHIM, SY TIONG SAN, SY YU BUN, SY YU SHIONG, SY YU SAN and BRYAN SY LIM,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CRIMINAL PROCEDURE; SEARCH AND SEIZURE; SEARCH WARRANT; DEFINED. — A search warrant is an order in writing issued in the name of the People of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and to bring it before the court. The issuance of a search warrant is governed by Rule 126 of the Rules of Court x x x .

2. ID.; ID.; ID.; ID.; VALID SEARCH WARRANT, REQUISITES. — [T]he validity of the issuance of a search warrant rests upon the following factors: (1) it must be issued upon probable cause;

---

[*] Designated to sit as an additional Member, in lieu of Justice Presbitero J. Velasco, Jr., per Raffle dated February 10, 2010.